

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY LA PAZ

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E.O. 11652: N/A

TAGS: CGEN (LOTZ, RODGER)

SUBJECT: AUTHORIZATION FOR MAJOR LOTZ TO TAKE OATHS

REF: LA PAZ 4450

1. DEPT. GREATLY APPRECIATES WILLINGNESS OF RODGER LOTZ TO ASSIST CONSULAR AGENCY IN SANTA CRUZ UNTIL RETURN OF CONAGENT MCKENNEY. HOWEVER, DEPT. NOT IN POSITION TO AUTHORIZE LOTZ TO TAKE OATHS FOR PASSPORTS, REPORTS OF BIRTH, ETC. FURTHER, HIS AUTHORITY TO PERFORM NOTARIAL SERVICES THROUGH DELEGATION FROM MILITARY IS SERIOUSLY QUESTIONED. THE AUTHORITY FOR MEMBERS OF THE ARMED SERVICES TO PERFORM NOTARIAL ACTS IS CONTAINED IN 10 USC 936 (ARTICLE 136 OF THE UNIFORM CODE OF MILITARY JUSTICE).

2. THE SECTION PROVIDES THAT CERTAIN DESIGNATED PERSONS ON ACTIVE DUTY WITH THE MILITARY "HAVE THE POWERS OF A CONSUL OF THE UNITED STATES IN THE PERFORMANCE OF...NOTARIAL ACTS"
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PAGE 02 STATE 152425

EXECUTED BY MEMBERS OF THE ARMED FORCES, PERSONS SERVING WITH, EMPLOYED BY OR ACCOMPANYING THE ARMED FORCES OUTSIDE THE U.S., AND OTHER PERSONS SUBJECT TO THE U.C.M.J. THE DESIGNATED PERSONS INCLUDE JUDGE ADVOCATES OF THE NAVY, ARMY, AIR FORCE AND MARINE CORPS, LAW SPECIALISTS, SUMMARY COURTS MARTIAL, ADJUTANTS, COMMANDING OFFICERS, STAFF JUDGE ADVOCATES AND ASSISTANT STAFF JUDGE ADVOCATES, AND ALL

OTHER PERSONS DESIGNATED BY REGULATIONS OF THE ARMED FORCES.

3. IN ORDER FOR MAJOR LOTZ TO TAKE OATHS PURSUANT TO THE AUTHORITY IN 10 USC 936, HE MUST BE ONE OF THE DESIGNATED INDIVIDUALS, AND MUST TAKE THE OATH FROM A MEMBER OF ONE OF THE CLASSES OF PERSONS DESCRIBED BY THE STATUTE. SINCE THOSE CLASSES ARE LIMITED TO MILITARY PERSONNEL (CIVILIAN OR UNIFORMED) AND THEIR DEPENDENTS, IT IS UNLIKELY THAT MAJOR LOTZ' AUTHORITY UNDER 10 USC WOULD BE OF MUCH USE AS A SUBSTITUTE FOR A CONSULAR AGENT WHOSE CLIENTS ARE PRIMARILY CIVILIANS, U.S. AND FOREIGN.

4. IN CURCUMSTANCES, IT WOULD SEEM THAT BEST AVAILABLE OPTION FOR MAINTAINING THESE TYPES OF SERVICES IN ABSENCE OF CONAGENT IS INCREASED VISITATION IN AREA BY QUALIFIED OFFICER FROM EMBASSY, OR, ALTERNATIVELY, PROVIDE SERVICES DIRECTLY FROM EXISTING CONSULAR SECTION. VANCE

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